

Bribery and corruption in telecommunications – the case of Nigeria

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Abstract

Purpose – *This paper aims to examine issues of bribery, cronyism and nepotism in one of the most corrupt countries in Africa.*

Design/methodology/approach – *This is a single-country case study, drawing on material dating from the mid-1970s, including court cases.*

Findings – *The corruption is pervasive and systemic, showing severe problems with governance in general, in the sector and against corruption. Nonetheless, two operators, one South African and one Nigerian, have delivered extensive access to mobile networks.*

Practical implications – *The system of governance requires significant structural reforms, if the burden of corruption is to be reduced.*

Originality/value – *This paper sheds new and explicit light on the complex history of telecommunications in Nigeria. It adds to the small base of material on corruption in the telecommunications sector. It identifies issues that could usefully be taken up by institutions in Nigeria.*

Keywords Governance, Nigeria, Corruption, Liberalization, Telecommunication

Paper type Research paper

Introduction

That corruption is commonplace in the telecommunications sector is well established, with manufacturers and operators having admitted bribery and nepotism in a range of countries (Sutherland, 2012). Nigeria was the location of bribes paid by Alcatel, ITT, ITXC and Siemens, while US Congressman Jefferson collected money to bribe Nigerians, but never did, and it was where James Ibori, Delta State Governor, committed financial crimes against his own electors. In 1983, an unknown number of people were killed in a fire that engulfed the 32-storey tower of the Nigerian External Telecommunications Company (NET), the work of arsonists, presumed to be destroying evidence of extensive corruption (Cowell, 1983). Nigeria has featured towards and sometimes at the bottom of the Corruption Perceptions Index (CPI) (TI, 2016). Nonetheless, it has seen rapid, if delayed, growth in mobile telecommunications (GSMA, 2017), and in undersea cables (Song, 2017), improving accessibility and the quality of services for businesses, citizens and government. The challenge is to create a coherent narrative from the various commercial, political and regulatory events permitting an analysis of how corruption has affected development of its telecommunications market.

Nigeria spent many years under military rulers who came to power through the barrel of a gun, sometimes returning through the ballot box, emphasising the culture of the strong man (Table I) (Stremlau, 1977; Diamond, *et al.*, 1997). Discovered in 1958, oil and gas boosted the economy and generated tax revenues, but left Nigeria hostage to price fluctuations and misappropriation of those revenues. The integrity of the country is threatened by violence in the Delta State (Ikelegbe and Umukoro, 2016), continued calls for secession by Eastern

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Table I Presidents of Nigeria

<i>Name</i>	<i>In office</i>	<i>Method</i>
Nnamdi Azikiwe*	1963-66	Election
General Johnson Aguiyi-Ironsi	1966	Coup d'état against first prime minister, based on corruption and hostilities against the Ibos of Eastern Nigeria
General Yakubu Gowon	1966-75	Assassination of Ironsi (an Ibo) by Hausa officers
General Murtala Mohammed	1975-76	Coup d'état
General Olusegun Obasanjo	1976-79	Coup d'état
Shehu Shagari	1979-83	Election
General Muhammadu Buhari	1983-85	Coup d'état
General Ibrahim Babangida	1985-1993	Coup d'état
Ernest Shonekan	1993	Appointed by General Babangida
General Sani Abacha	1993-98	Coup d'état
Abdulsalami Abubakar	1998-99	Coup d'état
General Olusegun Obasanjo	1999-2007	Election, supported by predecessor Abubakar
Umaru Yar'Adua	2007-10	Won a disputed election
Goodluck Jonathan	2010-15	On death of Yar'Adua, then election in 2011
General Muhammadu Buhari	2015-	Election, defeating Goodluck Jonathan

Note: *Served as Governor-General 1960-1963

Sources: [Diamond et al. \(1997\)](#), [Lewis \(2003\)](#), [Tar and Zack-Williams \(2007\)](#), [Siollun \(2009\)](#), [Omotola \(2010\)](#)

Nigeria ([Onuoha, 2017](#)), and a devastating upsurge of violence from a religious cult in Northern Nigeria ([David et al., 2015](#); [Sampson, 2016](#)).

At independence in 1960, there were only 38,900 telephone lines^[1], rising only to 500,000 fixed lines by the end of the twentieth century, of a quality widely accepted to have been awful. Mobile telecommunications, after a badly delayed start and with extortionate prices, filled the vacuum, becoming the primary and often only access to telephony and the internet. Mobile network operators (MNOs) face challenges and opportunities from population growth, having jumped from 45 million at independence to 123 million at the millennium and forecast to be 210 million by 2020, perhaps, 500 million by mid-century.

The next two sections of this article examine the political economy of telecommunications and corruption in Nigeria. This is followed an analysis of the evidence about corruption in Nigerian telecommunications from prosecutions in the USA. After which is an examination of the multiple and failed attempts to privatise NITEL, the state provider. That is followed by short case studies of James Ibori and MTN Nigeria. Finally, conclusions are drawn and issues identified for further research.

The political economy of Nigerian telecommunications

At independence, telephone services were provided by two organisations:

1. Posts and Telecoms Department (P&T) of the Ministry of Communications; and
2. Nigerian External Telecommunications (NET) Company, owned by Cable & Wireless.

The legal framework was the Telegraphs Act 1958 and Wireless Telegraphy Act of 1961^[2]. The Federal Government of Nigeria (FGN) acquired control of NET from Cable & Wireless in two stages: 51 per cent in 1963 and 49 per cent in 1972 ([Baglehole, 1969](#); [Barty-King, 1979](#)). While P&T was loss-making, NET was not only profitable but generated foreign exchange, susceptible to diversion by politicians ([Akwule, 1991](#); [Ajayi et al., 1999](#)).

Initially, the FGN had the limited goal of providing telephone services for its own administration, later addressing some commercial demand in major cities^[3]. Its objectives and funding were set out in national development plans, emphasising central roles for the

state in the economy and in service delivery, but hobbled by shortages of engineers, managers and technicians, failing to spend allocated funds (Table II). The 1970s saw greatly increased oil revenues, due to rising prices, allowing increased allocations for telecommunications, but making little difference to its very limited availability, with funding seemingly misappropriated by generals and politicians (Figure 2) (Lewis, 1977)[4].

Nigeria was an early adopter of the global trend for regulatory authorities, when the military Babangida Administration created the Nigerian Communications Commission (NCC), with the Ministry as policymaker (FGN, 1992; Onwumechili, 2005)[5]. The NCC began operations in September 1993, facing an uphill battle against generals and politicians who neither understood nor accepted its independence, for example, trying to use parliament to push operators to reduce their prices (Peel, 2002; Opata, 2013). NITEL remained state-

Table II Development and telecommunications plans

<i>Plan</i>	<i>Period</i>	<i>Telephony target</i>
First (FGN, 1962)	1962-1968	To increase telephone lines from 30,000 to 90,000 by 1970. Addition of a telex service. Spending of £27.4m
Second (FGN, 1970)	1970-1974	Allocation of £42.6m (8% of total), though only NGN 44m of 125m was spent, to: restore facilities in war-affected areas corporatise P&T Department expand telephone facilities in major cities and state capitals provide long distance services, especially between north and south improve and expand external services
Third (FGN, 1976)	1975-1980	Network expansion, including 500,000 additional lines, with new and upgraded links between cities, expansion of satellite earth station, connection to West African Submarine Cable (WASC) and building a microwave link to Benin
Fourth (FGN, 1981)	1981-1985	Provision and maintenance of adequate services, training of staff, separation and corporatisation of Telecoms Department. NGN 1.7bn allocated. Separation of telecoms from posts
Structural Adjustment Programme (FGN, 1986)	1986-1988	commercialisation and privatisation of NITEL
National Telecommunications Policy (NTP) (FGN, 1987)	From 1998	development of regulatory framework privatisation of NITEL liberalisation
National Telecommunications Policy (NTP) (FGN, 2000)*	From 2000	establishment of a regulatory authority "modernization and rapid expansion of the telecommunications network and services" exceed 1 telephone per 100 inhabitants (install 2 million fixed and 1.2 million mobile lines within 2 years) promote widespread access to the Internet develop and enhance indigenous capacity in telecommunications technology ensure government divests state-owned entities promote competition to meet growing demand through full liberalisation of the telecommunications market review and update telecommunications laws
National Economic Empowerment and Development Strategy (NEEDS) (FGN, 2004)	2003-2007	increase telephone density to four per 100 people make telecommunications accessible to a wider range of Nigerians, regardless of location develop a national communications and telecommunications backbone, including a national multimedia supercorridor
Vision 20:2020 (FGN, 2009)	2011-2015	leverage existing "astronomical" growth to improve effectiveness of the economy provide incentives to enhance rollout of ICTs and enabling infrastructure, especially in rural areas
National ICT Policy (FGN, 2012)	2012	become a knowledge-based and globally competitive society bring all ICT-related activities under a single Ministry promote universal access to high quality advanced ICTs encourage development of broadband services that will enable Nigerians to enjoy the benefits of globalisation and convergence
National Broadband Plan (FGN, 2013)	2013-2018	"... the user can access the most demanding content in real time at a minimum speed of 1.5 Mbit/s"

Note: *Drafted by the Telecommunications Sector Reform Implementation Committee
Source: Onwumechili (2001)

owned, allowing it to exercise considerable influence, for example, by delaying interconnection with other operators or doing so at high prices and low capacity. Nonetheless, commercialisation of NITEL and private participation in the sector had begun (Rimi, 1994).

The Nigerian Communications Act 2003 restructured governance, between:

Ministry of Communications;

National Frequency Management Council (NFMCC);

NCC; and

National Broadcasting Commission (NBC).

The first mobile service, using Total Access Communication System (TACS), was introduced in 1993 by Mobile Telecommunications Service (MTS), a 45:55 joint venture between NITEL and Digital Telecom (USA) (Adams, 1993; MPN, 1994)[6]. Almost all of the US\$15m invested came from Digital Telecom, with NITEL providing backhaul on its network. MTS soon added paging, voicemail and a public trunked radio service. Abacha, who had seized power in 1993, sought a 60 per cent share in MTS, which Digital Telecom declined. He then had NITEL set up a rival mobile service, M-Tel, across the road from MTS, and disconnect the MTS network, while its directors received death threats (Duguid, 2001; Odunlami, 2001)[7]. Richard Aggrey, MTS Vice-Chairman, fled Nigeria and its network closed in December 1995. Only after the death of Abacha was its analogue licence restored, at a cost of NGN 37m, rebranding as MTS First Wireless, but being unable to obtain spectrum for a GSM service it deployed E-TACS.

The Ministry also awarded a licence to EM-International Systems Nigeria Limited (EMIS) in 1992, confirmed by the NCC, while in 1994, it was assigned 900 MHz frequencies for GSM (Modupe, 2001)[8]. Although a supply contract was awarded to Motorola, EMIS disappeared.

M-Tel was spun off from NITEL in 1996, with a network of 10,000 lines, but working in partnership with Telecel added only 2,000 customers by 1999 (This Day, 2000). The Obasanjo Administration reversed the Abacha split, merging M-Tel back into NITEL, when its analogue network still had only 40,000 customers, despite its capacity for 210,000 (Nigeria Media Monitor, 2001).

The Abacha Administration had been cavalier by issuing over 100 licences including for very small aperture terminal (VSAT), fixed wireless, paging and mobile telephony, followed by many more licences from the Abubakar Administration (Adekanmbi, 2000; Holsendolph, 2000; Jerome, 2002). However, a major obstacle was interconnection with NITEL, which proved difficult to negotiate, expensive and technically unreliable. Some firms appear to have acquired spectrum speculatively, using political influence, with a view to reselling it at market value.

Almost immediately after the Obasanjo Administration took office, it established an inquiry into all licences, including oil and telecommunications, led by Christopher Kolade[9], which recommended that most of the Abacha and Abubakar licences be cancelled (Adekanmbi, 2000; FGN, 2002; Obadare, 2006). Six GSM licences were retained:

1. Communications Investment Limited (CIL);
2. Integrated Mobile Systems Limited (IMS);
3. MTS;
4. Motophone Communications Limited;
5. M-Tel; and
6. Telestar Communications Limited.

However, these were invalidated by the NCC because operators had either failed to pay fees or to deploy services within the mandatory six-month period. Motophone challenged the loss of its licence, which it originally believed was to be the sole GSM licence, on the grounds that its assigned frequencies had been withdrawn by the Ministry, rendering it incapable of providing a service, receiving compensation of US\$10m for network construction costs (Table III).

The FGN (2000) proposed to add 1.2 million mobile customers within 2 years by issuing four GSM licences at US\$100m each, for which 17 applications were received, though many were disqualified (Table IV), notably M-Tel and Multi-Links. Bidding was halted, due to failings in the qualification procedure, with the NCC board being dismissed (BBC, 2001).

Rather than repeat the aborted beauty contest, the FGN launched a four-stage process: invitation, pre-qualification, auction and grant of licence (Doyle and McShane, 2003; Lee, 2003). In addition to three auctioned licences, NITEL was to receive the fourth licence on the same terms: 15 years exclusive access to 2×5 MHz in the 900 MHz band and 2×15 MHz in the 1800 MHz bands. The mechanism was, unusually, an ascending clock auction, with the auctioneer announcing increased prices to bidders, which they could accept or reject. Over three days, it reached US\$285m for each (Table V). The auction partially failed, as CIL withdrew, despite having paid US\$20m entry fee, complaining its assigned frequencies were formerly those of Motophone, which was contesting their cancellation in the courts, creating legal uncertainty (Aihe *et al.*, 2001; Technology Times, 2012).

Table III Motophone licensing process

<i>Date</i>	<i>Event</i>
September 1997	NCC issued a 15 year licence, with automatic renewal for a further 15 years
April 1999	Ministry of Communications issued spectrum for GSM service
May 1999	Motophone began a commercial GSM service
October 1999	Ministry announced a demand for an additional fee of US\$100,000,000
October 2000	Ministry declared the spectrum had expired and began process to re-auction it
November 2000	High Court granted interim relief
January 2003	Interim relief upheld by Court of Appeal, but suspended during appeal to Supreme Court
June 2004	Interim relief case dropped
July 2005	Abuja High Court awarded Motophone US\$10,000,000 in damages for loss of licence
July 2007	Court of Appeal dismissed appeal by NCC against award of damages

Source: NCC v Motophone Ltd [2007] LPELR CA/A/189/05, Moto Phone Ltd v NCC & 3 others [2000] unreported – Court of Appeal

Table IV Shortlist of bidders for GSM licence in 2000

<i>Consortium</i>	<i>Investors</i>
CIL	Mike Adenuga (35%)
Motophone Ltd	Chagouri brothers (Lebanon), associates of General Abacha (The News, 1999)
MTS	Digital Telecom (USA)
MTN	MTN Group (South Africa)
NITEL	Federal Government of Nigeria
Reliance Telecoms	Nigerian interests including Chief Annie Okonkwo
United Networks	United Bank for Africa (UBA) and Orascom (Egypt)

Source: AFP (2000), Reuters (2000)

Table V Bidders in the 2001 GSM auction

<i>Company</i>	<i>Consortium members</i>
Communication Investments Limited** Econet Wireless Nigeria Limited	Nigerian-led consortium, with Detecon GmbH as technical adviser, 35% owned by Mike Adenuga Econet Wireless International (Zimbabwe) and First Independent Networks Limited (a consortium of Nigerian investors). Supported by Otunba Olasubomi Balogun, of the First City Monument Bank group
MSI-Celtel Nigeria Limited*	Led by MSI Cellular (Nigeria) BV (Celtel Group), with Monarch Communications Limited, Capital Alliance Nigeria, Capital Alliance Private Equity Limited and Alpine Investment Services Limited. Supported by General Yakubu Gowon and Chief Ernest Shonekan
MTN Nigeria Communications Limited	MTN International Limited (MTN Group) (75%), with 25% held by Nigerian businessmen including Alhaji Iyanda Folawiyo (Yinka Folawiyo Group), Oba Otudeko (Honeywell Group), Equitinvest Limited and Col. Mohammed Sani Bello (rtd)
United Networks Mobile Limited*	Led by Orascom Telecom (Egypt) with Belo Osagie (Chairman of United Bank for Africa (UBA)) and Chief Sonny Odogwu and Distacom (Hong Kong, India and Madagascar)
Notes: *United and MSI dropped out of the bidding; **withdrew after the auction	
Source: Adekanmbi (2001), AFP (2001), Wogu (2001)	

Customers adopted GSM services in large numbers, despite considering the prices excessive, notably holding a boycott on 19 September 2003, despite being under military rule (Obadare, 2006). They remained loyal to their operators (RIA, 2012), though many were “loyal” to more than one.

Globacom Limited (or Glo) is privately owned by Michael Adeniyi Agbolade Ishola Adenuga, through his Mike Adenuga (MA) Group, which also has stakes in the Equitorial Trust Bank, Conoil and Consolidated Oil (Nworah, 2006). Adenuga was part of the CIL consortium, awarded a GSM licence in 1999, subsequently cancelled, then he declined a licence won at auction in 2001. Seemingly in compensation, in 2002, Adenuga was awarded the second network operator (SNO) licence at a cost of US\$200m, this time on his own, including spectrum for mobile services (This Day, 2002). Glo began operations in August 2003, later acquiring licences in West African countries, achieving modest economies of scale. It also engaged in vertical integration, commissioning Glo-1, an undersea cable to the UK, at a cost of US\$800m, and together with another Nigerian cable Main One, it ended the monopoly of NITEL on international fixed connections in 2010.

The NCC issued four 3G licences in 2007, three to existing GSM operators, with the fourth to Alheri Mobile Services, part of the Dangote Group (Administrator, 2007). The following year, the NCC launched a probe into the failure of Alheri to deploy a 3G network, in response to press reports, denied by Dangote, that it wanted to sell the licence. In December 2010, the licence was sold to Etisalat Nigeria (Ogoegbulem, 2010).

CDMA was an alternative to GSM, with the first licence granted to Multi-Links in 1996. One attraction was that these licences were much cheaper, both in fees and in capital, as they were regional and came without coverage obligations. Unfortunately:

The founders of the networks were mostly former NITEL staff who brought in retired military officers with deep pockets and other businessmen interested in exploring an uncharted territory (IT & Telecom Digest, 2015).

Ultimately, the lack of capital and limited deployment meant they succumbed to competition from GSM operators. The CDMA licences were converted to national UASLs in 2006, but operators were unable to compete with Glo and MTN.

Despite the demographic and geographic challenges, the FGN committed to the provision of affordable universal service, facing very high costs for network construction and very low incomes of most citizens (Onwumechili, 2001). It was argued that the challenges were unique, but were no more difficult than Brasil, China or Indonesia, which had low levels of urbanisation and high levels of subsistence farming. Policymakers were saved by GSM operators, principally MTN and Glo:

Though market entry is generous, policy has simply not caught up with the pace of market developments, and regulation has generally been ineffective (RIA, 2012, p. 42).

The governance system was messy and weak, subject to arbitrary interventions by generals and politicians, not least to support indigenisation, wherever that was feasible.

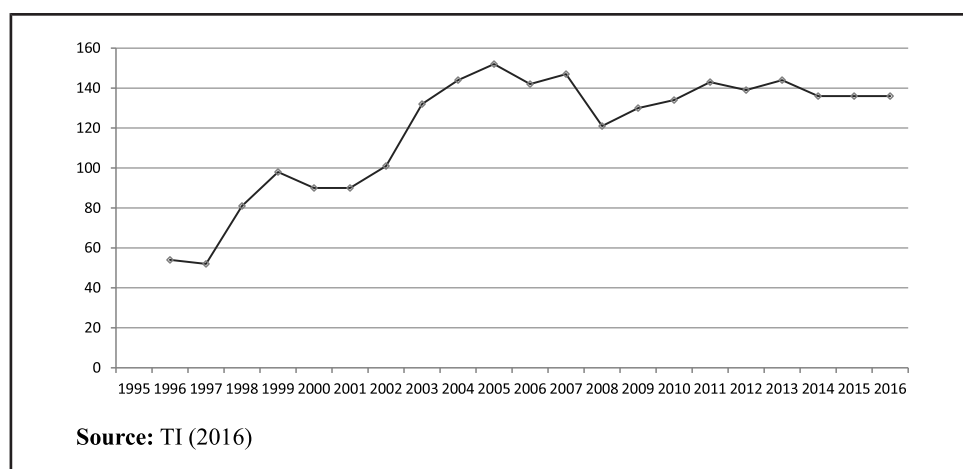
Corruption in Nigeria

Corruption has a long history in the governance and politics of Nigeria (Pierce, 2016; Frahm, 2017), some of which has been captured by Transparency International (TI) in its CPI (Figure 1). While the recent loss of US\$16bn from its oil fund was outrageous (Turkson, 2016), it was not the first such incident, despite efforts through the Extractive Industries Transparency Initiative (EITI, 2017). In all economic sectors, the FGN determines the “rules of the game” thus enabling corruption.

The most important analytical framework has been prebendalism, in which politicians and government officials believe themselves to have a right to a share of government revenues, to be used for the benefit of their supporters, and members of their ethnic groups and religious cults (Joseph, 1987; Adebawo and Obadare, 2013). The ethnic groups devised criminal techniques to secure their share, while military governments behaved like organised crime families (Ebbe, 1997). Men in power – gatekeepers for some opportunity – expected to be rewarded for the performance of functions on behalf of strangers, even when it was their duty. Those running for public office had to be able to offer money and gifts to their electorates, especially to community leaders, who would then support their candidacy. There has been a particular problem of overlapping elites, with leaders in the army and government also being traditional or tribal chiefs, causing conflicts of interest.

The British legacy, alongside arbitrary borders, includes a political rhetoric about politicians being corrupt, dating back to town councils created after the Second World War (Tignor, 1993). What began in colonial administration correspondence moved into inquiry reports

Figure 1 Corruption perceptions index – ranking for Nigeria



(Storey, 1953), then into antagonistic electioneering, with parties and politicians accusing one another. Corruption first came to a head in the 1966 *coup d'état*, followed by a sequence of military interventions, all purportedly aimed at stamping out corruption, but proving counterproductive. Corruption that could not be concealed was dismissed by the courts or lost in interminable investigatory commissions.

Its roots go deep, to a materialism and political fragmentation that are the products of a moment in development. Forces that might deter corruption are often weak, with little threat of detection from audit controls or police operations, while the public was often unaware, as politicians controlled the press, compounded by low levels of literacy. Nigerians not only placed a strong emphasis on materialism, initially in imitation of expatriate Europeans, but also were influenced by religious cults. The processes of economic development and urbanisation operated to weaken idealism, which was also undermined by interest-group politics, sectional and ethnic allegiances.

An anthropological account of corruption in Nigeria shows it to have permeated nearly all aspects of governmental and commercial life, exemplified by the infamous 419 scams, named after the applicable section of the penal code (Smith, 2007). An archetypal advance fee fraud scam is a mail message apparently from Mariam Abacha, widow of an ex-President, explaining that a very large sum is held in a bank account and that on payment of a smaller sum it can be freed and divided up. It presumes some understanding that powerful figures in Nigeria can obtain large sums by illicit means and suspension of disbelief that the approach is a scam.

Human Rights Watch (2011) described public service in Nigeria as a kind of criminal enterprise. In particular, it complained of the Economic and Financial Crimes Commission (EFCC), the body supposed to fight corruption, that:

[...] many of the corruption cases against the political elite have made little progress in the courts: there have been only four convictions to date and those convicted have faced relatively little or no prison time. Other senior political figures who have been widely implicated in corruption have not been prosecuted. At this writing, not a single politician was serving prison time for any of these alleged crimes. Despite its promise, the EFCC has fallen far short of its potential and eight years after its inception is left with a battered reputation and an uncertain record of accomplishment. (Human Rights Watch, 2011)

In common with many countries, Nigeria had created a body to fight corruption, the EFCC, which had been pressed on the FGN by the international financial institutions (IFIs) and aid donors, but faced a very slow judicial system, very little political support and frequent interference in prosecutions (Tayo, 2013; Albert and Okoli, 2016). For example, the EFCC arrested and questioned the head of the NCC for a day, apparently because he had disagreed with the minister by refusing to conduct a spectrum auction, when the minister was barred by statute from directing the NCC, to ensure its independence (Alli, 2009; Osuagwu, 2009; Opata, 2013, pp. 291-295). There was and remains little interest in convictions, as demonstrated in the case of James Ibori (see below), with the EFCC budget being limited and the FGN failing to strengthen its capacity. A devastating account of the political culture and the lack of support was provided to the US Congress (Ribadu, 2009).

In an interview, ex-President Obasanjo remarked:

You are being euphemistic when you say lack of accountability. Call it corruption [...]. There is no part of the world where corruption is absolutely eliminated. But that corruption has not been a way of life. When you are found, you are dealt with. And that's what we need. (Guest, 2012)

Yet, little progress has been made towards that goal, indeed there is minimal interest in starting out on that path.

The US Foreign Corrupt Practices Act

The US Congress, in cleaning up after the resignation of President Nixon, adopted the Foreign Corrupt Practices Act (FCPA) 1977[10], which is explicitly extraterritorial in scope and expansive in application, including any transaction that involves a US citizen, any corporation registered in or trading on a stock exchange in the USA, or where funds pass through a bank or agent in the USA. It applies to payments, both in money and in kind, made to officials of foreign governments, including the directors and employees of regulatory agencies and state-owned enterprises, including manufacturers and operators (Cassin, 2008). The USA successfully persuaded the members of the Organisation for Economic Cooperation and Development (OECD) to adopt the same principles in its Anti-Bribery Convention (OECD, 1997), partially levelling the playing field, making it illegal for foreign rivals to pay bribes.

The USA has been assiduous in prosecuting firms and has a powerful mechanism, requiring firms to publicise and investigate their own suspicions, resulting in prosecutions and deferred prosecution agreements (DPAs) and civil class actions by investors, including several in Nigeria (Table VI).

In the Nixon investigations, the US Congress heard that International Telephone & Telegraph (ITT) had engaged in bribery, triggering investigations before the FCPA came into effect. In the 1970s, ITT had made “questionable” payments of about US\$13m to officials in nine countries, including Nigeria, in return for contracts to supply equipment, the funds channelled via subsidiaries in Belgium, Germany and Switzerland (Berry, 1980). For example, ITT Nigeria had signed contracts worth US\$160m to supply the FGN with telephone exchanges and training[11]. Although ITT and the SEC settled the case in August 1979, ITT subsequently denied paying bribes in Nigeria, stating that payments to Chief Moshood Abiola were “proper”, given his position as chairman and his controlling stake in

Table VI FCPA Prosecutions and DPAs relating to telecommunications in Nigeria

<i>Firm</i>	<i>Individual (s)</i>	<i>Financial benefit</i>	<i>Bribe (s) (US\$)</i>	<i>Case</i>
ITXC	Yaw Osei Amoako (formerly Regional Director for Africa)	Enabled termination of calls at preferential rates, winning business away from rivals.	166,541	SEC v. Amoako, (2006) US v. Amoako, (2006)
	Steven J Ott formerly Vice-President for Global Sales)	Valued at US \$1,136,618 in net profits		US v. Steven J. Ott (2007)
	Roger Michael Young (formerly Managing Director for the Middle East & Africa)			US v. Roger Michael Young, (2007) SEC v. Steven J Ott and Roger Michael Young (2006)
Alcatel	—	Sale of equipment to state-owned operators in a range of countries	—	US v. Alcatel- Lucent, S.A. (2010)
Siemens	—	Sale of equipment to state-owned operators in a range of countries	—	SEC v. Siemens AG (2008) US v. Siemens AG (2009)
—	William J Jefferson	Claimed he needed money to bribe officials at NITEL and Atiku Abubakar, the then Vice-President of Nigeria	500,000	US v. William J Jefferson (2012)

ITT Nigeria ([WSJ, 1980](#)). Abiola worked for ITT from 1969 to 1988, rising to be Chairman of ITT Nigeria and Vice-President EMEA, later standing as a candidate in the 1993 presidential elections; during the campaign, he denied he had paid “kickbacks” for supply contracts ([Reuters, 1993](#)). He claimed that the SEC in 1979 and a Nigerian judicial commission of inquiry in 1989 had investigated the allegations and found no evidence of unlawful payments by ITT to obtain Nigerian contracts.

After the furore in the EU and USA over the Siemens fines ([Sutherland, 2012](#)), President Yar'Adua called for action by the EFCC ([2007](#)), which eventually agreed that Siemens would pay NGN 7bn to the Ministry of Justice ([TNV, 2010](#)). This saw the withdrawal of charges against Siemens AG, Siemens Nigeria Ltd, and executives:

Eduard Seidel;
Klaus-Peter Gilbert;
Waclaw Lukowicz; and
Schroeter Jochen.

By avoiding a prosecution, it was not blacklisted from procurement tenders.

The EFCC arraigned in the High Court in Abuja ([EFCC, 2010](#); [Vanguard, 2010](#); [FRN v. Shuaibu, Mohammed, Ossai & Momife \[2012\]](#) unreported – Abuja High Court):

Maigada Shuaibu (a former Executive Director of Power Holding Company of Nigeria);
Mahmood Sadiq Mohammed (former Permanent Secretary in the federal ministry of power and steel);
Emmanuel Chukwuemeka Ossai (former General Manager in NITEL); and
Edwin Moore Momife (former CEO of MTEL).

They faced a total of 16 charges, including the acceptance of sponsored travel, payment of medical expenses and other financial inducements by Siemens. The convictions were set aside by the Abuja Court of Appeal, which held that the EFCC had failed to establish a case against them ([Malakata, 2014](#); [Tarpel, 2014](#); [Ragano, 2014](#)).

Whereas, no action was taken against the four former ministers of communication identified as recipients of 77 bribes amounting to €12m:

Halilu Bello Mohammed (Deputy National Chairman of the People's Democratic Party);
Tajudeen Olanrewaju (retired Major-General);
Cornelius Adebayo (ex-governor of Kwara State); and
Haruna Elewi.

The US authorities have the powers necessary to investigate cases and have imposed fines as result of the obligation on firms to investigate concerns about corruption, whereas the capacity and willingness to prosecute in Nigeria are both lacking.

The multiple privatisations of the state provider

The privatisation of state providers of telecommunications started in the 1980s with British Telecommunications (BT) in the UK ([Parker, 2009](#)). It provided a means for governments to raise money, to reduce borrowing and to demonstrate a commitment to commercial operators that they would not interfere in markets on behalf of one operator ([Laffont and Tirole, 2001](#)). The policy was pressed on developing countries by the IFIs, especially as part of structural adjustment programmes (SAPs) ([Guislain, 1997](#)). The public sector in Africa was considered bloated and incapable of efficient service delivery, with its poor

performance imposing unnecessary costs on industry and limiting economic growth. It was argued that privatisation and foreign investment would bring technology, managerial competence and capital, while ensuring the proper functioning of utilities (Azubuike, 2005). Unlike in Europe, poverty precluded the option of participatory privatisations, as the overwhelming majority of citizens had no savings to invest, leaving shares either for the local elite or foreign MNCs (Adejumobi, 1999).

The Nigerian framework for the privatisation of state-owned enterprises was laid down in:

Privatisation and Commercialisation Decree No. 25 of 1988; [12]

Privatisation and Commercialisation Act of 1990;

Bureau of Public Enterprises Decree No. 78 of 1993; and

Public Enterprises (Privatisation and Commercialisation) Act of 1999.

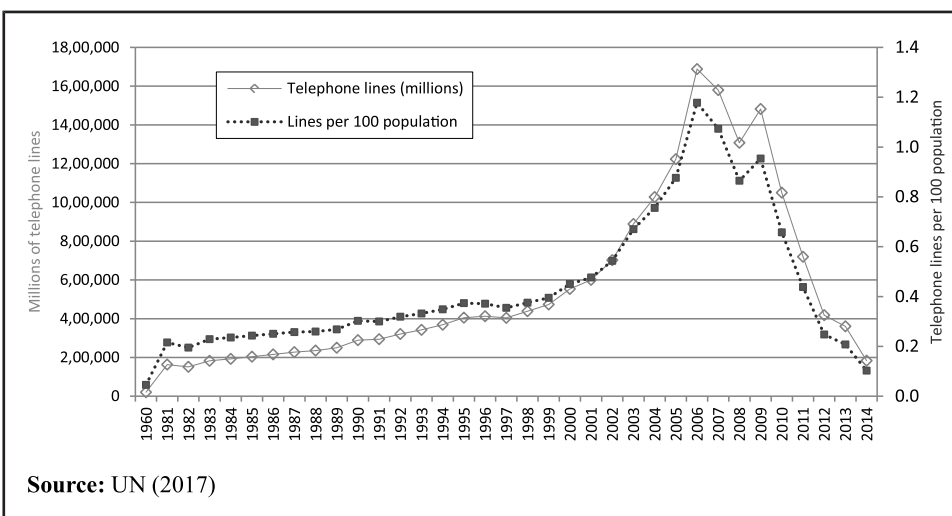
It began under the Babangida Administration, which created the Technical Committee on Privatisation and Commercialisation (TCPC). A decade later, this was replaced by the National Council on Privatisation (NCP), with the Bureau of Public Enterprises (BPE) as its secretariat [13]. Initial privatisations resulted in controversies over the valuation of their assets (Tajudeen, 2004), and a series of other, often severe, failings (Etieyibo, 2013).

In 1985, the Buhari Administration split the Posts and Telecommunications Department of the Ministry of Communications, merging its telecommunications arm with NET, to form Nigerian Telecommunications Limited (NITEL). A planned privatisation to sell 40 per cent and float another 20 per cent was soon withdrawn (EMW, 1998). NITEL was given some autonomy, but under government-appointed directors, trying to rebalance tariffs and increase collection of debts. Its network remained very small and largely urban, despite absurdly ambitious claims it would build out to rural areas, for which there was neither a viable financial model nor government funding. Between 1975 and 1999, NITEL received subsidies of NGN 30m to maintain an abysmal service (FGN, 2005).

TCPC conducted a diagnostic appraisal of NITEL, opting for commercialisation; the firm subsequently being denied access to subsidies and soft capital, to push it to improve its efficiency. By 1992, NITEL had become a public limited liability company and had signed a performance contract with TCPC. It was also one of the highest revenue generating firms, up 300 and 400 per cent in 1992 and 1993, respectively, as a result of greatly increased prices. A new organisational structure was implemented, to correct problems with a previous version designed by BT (Freeman, 1986). The World Bank lent the FGN US\$225m in 1990, to assist its commercialisation and to improve its financial performance, but this was terminated because of the lack of due diligence, effectively corrupt procurement (IEG, 1996). Obasanjo ordered a judicial inquiry into NITEL and M-Tel, recommending they be demerged immediately, that M-Tel should be privatised separately and before NITEL (Ukeje-Eloagu, 2001a) [14]. The FGN made some provisions towards unfunded pensions obligations of NGN 43bn. Investigations were also conducted into more than 400 petitions submitted to the Anti-Corruption and Other Related Offences Committee of the Ministry of Communications, resulting in the dismissal of 109 staff (Ukeje-Eloagu and Ajakaye, 2001).

The history of NITEL was as a cash cow for the FGN and politicians, which partly explains the slow expansion of its network, failing to reinvest at the level needed for economic or demographic growth. NITEL offered a limited service, of notoriously poor quality, ludicrous price increases, without even the pretence of delivering on universal service promises (Figure 2) (Onwumechili and Okereke-Arunga, 2003). Privatisation and liberalisation were actively resisted by managers and workers.

The FGN was pressed by the IFIs over several years to privatise NITEL, to improve the availability and quality of telecommunications services, to boost economic growth. Finally, a first attempt was made in 2002 (Table VII), with its sale to Investors'

Figure 2 Fixed telephone lines in Nigeria**Table VII** Bidders for NITEL privatisation

Consortium	Participants and supporters
Investors international	Investors International London Limited (IIL),* owned by Chief Labode Oladimaji Akindele Tecnologia de Comunicacoes (TDC), a subsidiary of Portugal Telecom, CRM Solutions Inc. Other Nigerian participants included Olu Falomo, Oba Sikiru Adetona, Ibrahim Aliyu, Professor E. Edozien, Kaduna, and the governments of Ogun, Akwa Ibom and Bauchi states. It was supported by First Bank of Nigeria and Nortel Networks
Newtel	Dangote Group, BT, Africa Private Equity Partners and Detecon Consulting (Deutsche Telekom)
Telnet	Korea Telecom & Swedotel AB (Telia)

Note: *UK Company No. 04235084
Source: BBC (2002); Ukeje-Eloagu (2001b)

International London Limited (IIL), which although registered in the UK belonged to Chief Bode Akindele ([Engineering News, 2001](#)). Although IIL paid a non-refundable deposit of US\$130m[15], it failed to produce the US\$1,317m for its 51 per cent stake, resulting in cancellation of the deal ([Oxford Analytica, 2002](#))[16]. This was attributed to political instability and parliamentary approval for a SNO, just before the deal was to be completed. IIL was granted a six-week extension, but still failed to pay and then asked for the return of its deposit, with interest, blaming political manoeuvrings that had discouraged its pre-arranged investors ([Odivwri, 2002](#))[17]. Two other privatisations failed because bidders could not raise the funds.

In December 2005, a second attempt at privatisation failed when the sale of 51 per cent of NITEL and M-Tel was rejected by the Obasanjo Administration, for not reaching the reserve price. From a short list of six firms, the sole offer of US\$256.5m was from Orascom, an Egyptian multi-national with considerable expertise in telecommunications ([Vanguard, 2005](#)).

BPE next decided to hire management consultants to modernise NITEL and to expand its network, in preparation for a third privatisation, for which the FGN paid a fee of US

\$4m per year. Fourteen expressions of interest became five formal proposals, from which was selected Pentascope International BV, led by Rein Zwolsman (ex-Lucent), allegedly established in The Netherlands a year before in a dilapidated church (Onwubiko, 2008). When it took over NITEL, there were 455,000 lines and about NGN 18bn in reserves, when the contract was terminated, there were 288,000 lines, a loss of NGN 100bn and a backlog of unpaid wages (Akwaya and Olaniyi, 2005).

The third privatisation was its sale to Transnational Corporation of Nigeria Plc (Transcorp, 2017), allegedly in partnership with BT (Adogamhe, 2012). Transcorp was created in 2004 and launched by President Obasanjo at State House, buying four oil blocks and two refineries from the FGN; effectively a vehicle for indigenisation and privatisation (Iliffe, 2011, p. 257 and 275). It was alleged to have been owned by politicians, notably Obasanjo. This would explain its speedy acquisition of NITEL, the absence of other bidders and the unplanned increase from 51 to 75 per cent equity, sold for US\$750m (Daily Champion, 2006). The FGN promised to sell the remaining 25 per cent through an Initial Public Offering (IPO). Transcorp had relied on foreign commercial and technology partners, BT and Etisalat, though there is very little evidence of commitments from either firm, with both falling out with Transcorp over funding and business practices.

In February, 2005, the FGN terminated the Transcorp contract for failure to improve its competitiveness and to meet re-organisation targets, despite further reducing the workforce (Hamilton, 2009). In 2009, the EFCC arraigned three Transcorp officials before Justice S. C. Chukwu (Ovuakporie, 2009; Telegeography, 2009):

Thomas Iseghohi (Group Managing Director);
 Muhammed Buba (Company Secretary); and
 Mike Okoli (Deputy General Manager).

They faced 32 charges of criminal conspiracy, criminal breach of trust, money laundering and misappropriation of NGN 15bn public funds. Their convictions were set aside by the Abuja Court of Appeal (Kuponiya, 2017).

In yet another effort, BPE announced a shortlist of prospective buyers (Table VIII). This was despite revenues having fallen from NGN 15.0bn to 1.5bn between 2002 and 2005, and the M-Tel market share dropping from 11 to 5 per cent. This too was abandoned. A panel representing all stakeholders, headed by then Vice-President Goodluck Jonathan, recommended that a new technical partner be sought (Onwubiko, 2008).

In early 2010, the FGN announced bidders for the fourth privatisation (Table IX). New Generation and Omen were selected as the preferred and reserve bidders, respectively, having offered US\$2,500bn and 956m (Ihs, 2010). However, this exercise also failed, allegedly because of the withdrawal of China Unicom from New Generation, though Chinese operators have almost no foreign network investments.

Table VIII Shortlist consortium for GSM licences

<i>Consortium</i>	<i>Participants</i>
Transcorp	Nigerian interests and BT Group (UK)
Globacom	Mike Adenuga (Nigeria)
Afro Telecommunications	Korea Telecom (South Korea)
MTC/Celtel International	Mo Ibrahim (Netherlands)
Investcom	Mikati family (Lebanon)
Telkom	SOE (South Africa)
Etisalat	SOE (UAE)
Source: Oxford Analytica (2006)	

Table IX Bidders

<i>Consortium</i>		<i>Participants</i>
AF21/Spectrum Consortium		—
Brymedia (WA) Ltd		—
Globacom Nigeria Ltd	Mike Adenuga	
MTN Nigeria Communication Ltd	MTN Group	
Omen International Ltd (BVI)		—
New Generation Telecommunications Ltd	Formerly the Telefónica Consortium, but including: China Unicom (Hong Kong) Limited, Minerva Group of Dubai, and Nigerian operator GiCell Wireless Limited	

Source: [Africa Confidential \(2010\)](#)

In 2012, the NCP approved the “guided liquidation” of NITEL and MTel, in the face of unpaid terminal benefits of former staff, arrears of salaries for serving employees and unpaid licence fees. NATCOM was selected as the preferred purchaser, successfully bidding US\$252.5m, including licenses and spectrum, fixed networks, international gateway and towers ([Linington, 2014](#)). It was a consortium led by Olatunde Ayeni, comprising ([Telegeography, 2015](#); [Udo, 2014](#); [Malakata, 2015](#)):

Legal Resources Alliance & Co;

NATSPACE Telecommunication Investment;

Olutoyl Estate Development & Services (30 per cent);

PCCW Global (Hong Kong);

Prime Union Investment Limited (30 per cent);

Sahara Energy Resources; and

LM Ericsson Nigeria (non-equity technical partner).

Unusually, NATCOM paid both parts of the fee on time, rebranding it as Ntel. The deal was approved by the House of Representatives, despite concerns by the incoming Buhari Administration ([The Nation, 2016](#)).

There is no parallel for this sequence of governance failures in privatisation over such a prolonged period, involving so many actors, not all of whom are identifiable, with foreign firms named but lacking any proven commitment. Successive governments tried to balance indigenisation with privatisation, influenced by elites, picking entities that lacked the financial and technical capacity to perform what increasingly required an act of necromancy on NITEL and M-Tel:

By and large, what the interviewees have highlighted is the siphoning of NITEL’s funds to the management of other government agencies, misappropriation of funds, and corruption especially during Nigeria’s long years under military rule ([Olutayo and Omobowale, 2011](#), p. 345).

There is something unnerving in the persistence of administrations, failing to learn from mistakes, continuing to believe NITEL had some special value, which they never realised. The result was severe problems for telecommunications markets, leaving retail and especially wholesale customers, actual and potential, in impossible positions. NITEL was able to abuse its position as the monopoly provider of fixed lines for retail customers, offering appalling quality, high prices and failing to migrate to broadband. Even more seriously, it provided overpriced and substandard domestic and international leased lines for Nigerian and foreign businesses and mobile operators. It also failed to provide interconnection or charged high prices and provided poor quality to discriminate against other operators.

MTN Nigeria

South Africa was the first African country to introduce competition between GSM operators, licensing MTN and Vodacom in 1993, both later expanding northwards (Table X), to achieve economies of scale and to exploit their understanding of and ability to learn from markets (Hoff, 2006; Sutherland, 2015). Nigeria was very attractive, given its rapidly expanding population. However, an obvious challenge was the corruption, with Vodacom subject to the US Foreign Corruption Practices Act, something MTN contrived to escape when Cable & Wireless and SBC (now AT&T) had been bought out of their shareholdings in 1996. Vodacom wound up its operations in Nigeria with unusual haste over governance concerns. MTN obtained its initial licence in Nigeria with support from politically connected friends, that did not bring commercial, financial or policy expertise.

The ITU World Radiocommunications Conference (WRC) unexpectedly changed the 700 MHz band from being exclusively for broadcasting to a shared assignment with mobile telecommunications (El-Moghazi *et al.*, 2016). In the closing days of the Jonathan Administration, MTN was the sole bidder for a large part of these frequencies, paying NGN 34bn to the National Broadcasting Corporation (NBC) (Adepoju, 2015; Garba and Adepetun, 2015). Its Director General was questioned by the EFCC, as the sale was considered outside his powers; the spectrum ought to have been returned for auctioning by NCC (Southwood, 2016; Akinkuotu, 2016; Offor, 2016). A significant allegation was that NGN 3.4m, a 10 per cent broker fee, had been paid to a consultant, in effect a bribe. The Buhari Administration recognised the sale, but exclusively for use for digital television (DTV, 2015).

Table X MTN in Africa

Country	Customers (millions)	ARPU (US\$)	Holding*(%)	Partners
Benin	4.16	5.30	75	Not disclosed (25%)
Botswana	1.78	6.17	53	Econet Wireless (47%)
Cameroon	9.75	2.98	70	Colin Mukete (30%)
Congo - Brazzaville	2.40	6.51	100	—
Ghana	16.79	2.87	98	Not disclosed (2%)
Guinea - Bissau	0.68	3.48	100	—
Guinea - Conakry	2.49	2.16	75	Local investors (25%)
Ivory Coast	10.40	4.33	65	Not disclosed (35%)
Liberia	1.58	2.44	60	PLC Investments (40%), believed to be owned by Emmanuel Shaw and Benoni Urey
Nigeria	60.52	3.60	76	18.7% Nigerians (not otherwise identified) 2.78% Mobile Telephone Networks BV (Netherlands) 2.71% Shanduka Telecom (Mauritius) Limited
Rwanda	4.21	1.74	80	Crystal Telecom (20%), floated on Rwanda SE
South Africa	30.23	6.86	100	—
South Sudan	0.71	1.84	100	—
Sudan	6.07	3.59	85	Larrycom for Investment (15%)
Swaziland	0.98	7.75	30	King Mswati III (10%)**; Swaziland Empowerment Ltd (20%), not disclosed (30%)
Uganda	10.86	2.11	96	—
Zambia	5.50	2.27	86	Not disclosed (14%)

Notes: *Mostly through a Mauritius holding company; **through nominees

Source: MTN Group (2017)

The EFCC arraigned on 15 charges of money laundering and procurement fraud:

Emeka Mba, formerly Director-General of NBC;

Patrick Areh, formerly Director of Finance of NBC;

Basil Udotai; and

Babatunji Amure.

NBC officials had allegedly transferred millions of dollars into accounts of companies owned by the two businessmen, subsequently transferred to their own private accounts. The trial commenced and then adjourned ([Premium Times, 2017](#)).

In common with many African countries, the NCC introduced mandatory registration for Subscriber Identity Module (SIM) ([GSMA, 2016](#)). The registration exercise of current SIM cards was officially concluded on 30 June 2013, with the [NCC \(2011\)](#) requiring biometric details of SIM card holders, including a photograph and finger prints. After long negotiations with MTN over registration of its customers, the NCC fined it US\$1,000 for each unregistered SIM card ([Tshabalala, 2015](#)). There followed further discussions between MTN and NCC ([Aginam and Udofia, 2015](#)), with President Buhari accusing MTN of supplying SIM cards to terrorists ([Sotubo, 2016](#)). Eric Holder, a former US Attorney General, successfully negotiated the fine be halved ([Brock and Laessing, 2016](#)).

Governor James Ibori

James Onanefe Ibori was born in Nigeria, moving to the UK in the late 1980s where he worked in Wickes, a do-it-yourself store, as a checkout attendant. In 1990, he was convicted of theft from Wickes and in 1991 of possessing a stolen credit card, for which he was fined ([Rayner, 2012](#)). He returned home to pursue a career in politics, becoming closely linked to Sani Abacha and rising to be Governor of Delta State from 1999 to 2007. Subsequently, he was extradited from the UAE to the UK on 23 charges of fraud and money laundering. He admitted ten charges and was sentenced to thirteen years in jail. Ibori was released in December 2016, having agreed to be deported after serving half of his sentence ([Easton, 2016](#); *Ibori, R (on the application of) v Secretary of State for the Home Department* [2017] EWHC 1207 (Admin)). Ibori disputed the timing of his release, claiming to have been detained for an extra 36 hours, for which he was awarded £1 (NGN 400) in compensation ([Vanguard, 2017](#); *Ibori v. Home Secretary* [2017] EWHC 1207 (Admin)). The delay had been caused by UK authorities seeking to complete recovery of the proceeds of his crimes. On his return to Nigeria, he re-entered political circles and was made chieftain of the Ezi-Oyi Anioma ([Yusuf, 2017](#)).

Individuals are debarred by s.182(1)(e) of Nigerian Constitution from being candidates for election if they have criminal convictions ([FGN, 1999](#)). A James Onanefe Ibori had been found guilty of negligent conduct and criminal breach of trust under s.157 of the Criminal Procedure Code of the then Northern Region of Nigeria, and had been sentenced to a fine of NGN 1,000 or one year imprisonment (*Commissioner of Police v. James Onanefe Ibori* [1995] unreported – Upper Area Court, Bwari). Legal cases arose as to whether this was the person elected Governor of Delta State, a matter taken twice to the Nigerian Supreme Court (*Agbi & another v. Chief Audu Ogbe & others* [2006] 11 NWLR (Pt 990) 65 SC; *Ibori v. Agbi* [2004] 6 NWLR (pt 868) 78 SC). The dismissal of this case led to accusations of bribery, with two lawyers, Moses Oddiri and Andrew Oru, being struck off for alleging the then Chief Justice, Muhammadu Lawal Uwais, and other supreme court judges had received NGN 5bn from Ibori ([Sahara Reporters, 2008](#)). At no time did Ibori admit to the various courts that he had convictions in the UK, which debarred him from seeking or holding elected office.

One of the counts of money laundering admitted by Ibori to Southwark Crown Court concerned US\$37m related to the sale of shares in V-Mobile held by his administration.

Ribadu told Southwark Crown Court that Ibori had stolen half the proceeds from V-Mobile that had been due to Delta State ([Sahara Reporters, 2013](#)). The sum was purported to be consultancy fees for the evaluation of shares held by Delta State.

What is today Airtel Nigeria, a subsidiary of Bharti Airtel (India), has passed through a chain of owners ([Table XI](#)). The Econet Wireless Nigeria (EWN) consortium originally won a GSM licence in 2001 ([Table V](#)). The majority of its shares were owned by Nigerian investors, including First Bank of Nigeria and investment companies owned by the governments of Akwa Ibom, Delta and Lagos states. Econet Wireless International (EWI) intended to take a 40 per cent stake, but this had to be reduced to 5 per cent because of financial problems in Zimbabwe. The missing 35 per cent was raised largely from the three Nigerian state governments, but involved the payment of “brokerage” fees of 5 to 10 per cent. In 2003, EWI, which had been partly acquired by Altech (South Africa), proposed increasing its stake in EWN to 33 per cent, in return for investing US\$150m. Meanwhile, Vodacom had offered to buy 51 per cent of EWN for US\$250m, which its board had accepted, but the offer was rejected by EWI, seeking control for itself, filing a series of legal actions. Strive Masiyiwa, founder of EWI, claimed the Nigerian shareholders had reneged on an agreement to allow him to increase the EWI stake to one third. This had been circumvented by awarding Vodacom a five-year management contract, giving it control and allowing it to rebrand Econet to Vee Networks. Masiyiwa maintains he was driven out because he refused to pay US\$9m in bribes, half of which was demanded by Ibori personally ([Bada, 2017](#)).

Vodacom precipitately, but mutually and amicably, cancelled its management contract for Vee Networks and terminated the employment of three senior executives ([Business Report, 2004](#); [Stones, 2004](#))[18],[19]. Vodacom explained it had acted to protect its corporate governance standards, though it neither admitted to nor alleged any corruption or wrong doing by its employees:

Vodacom CEO Allan Knott-Craig said that losing the opportunity in Nigeria was significant and what caused Vodacom to walk away were “brokerage fees” which are legal. Vodacom found out the payments had been concluded despite its objections, the fees were repaid but Vodacom’s confidence was affected. ([Hoff, 2006](#))

Econet filed a claim in the Kaduna High Court in 2004, asserting that it held a 5 per cent stake in the network and that its pre-emption rights in respect of shares had been breached when the Nigerian partners sold their shares in V-Mobile to Celtel. It tried to prevent the sale through the UK courts but was told it was an in appropriate venue ([Econet Wireless Ltd v. Vee Networks Ltd & Ors \[2006\]](#)). Econet next commenced lengthy litigation, ending when the Court of Appeals ruled that it was indeed a minority shareholder ([Econet Wireless Nigeria Ltd v. Econet Wireless Ltd & others \[2014\]](#)). Bharti announced it would challenge this decision in the Supreme Court ([Ghosh, 2014](#)), with the disputed shares held in escrow,

Table XI The ownership history of Airtel Nigeria

<i>Brand</i>	<i>Ownership</i>	<i>Date</i>
Econet Wireless Nigeria (EWN)	Licence awarded to consortium of First Independent Networks, Transnet and Econet Wireless International (EWI) for US\$285m	January 2001
V-Mobile	Vee Networks Limited	2003
Celtel Nigeria	Celtel International BV acquired 65% for US\$1.0bn (Zain, 2007)	2006
Zain Nigeria	Zain Group (Kuwait), formerly MTC Group, acquired an 85% stake	August 2008
	Celtel International and its 14 African subsidiaries in May 2005 in a US\$2.84bn deal – increased to 100% by May 2007 (Telegeography, 2008 ; FT, 2010)	
Airtel Nigeria	Bharti Airtel (India) acquired Zain operations in 15 countries US \$10.7bn (The Hindu, 2010)	November 2010

Source: [Taiwo \(2015\)](#)

but leaving it with 79 per cent ([Economic Times, 2014](#)). Bharti finally bought out Econet for US\$127m ([Adepetun, 2016](#)).

Mallam Nuhu Ribadu, formerly Chairman of the EFCC, testified before the US House of Representatives that he had been offered US\$15m in cash by James Ibori, to drop corruption charges against him ([Ribadu, 2009](#); [Committee on Financial Services, 2009](#)). It had proceeded with the case, despite Ibori being a close associate of Presidents Abacha and Yar'Adua, until Ribadu was forced from office ([Omonobi and Ulayi, 2007](#)). A court in Asaba in Delta State dismissed the one hundred and seventy (170) charges brought against Ibori, including the US\$15m bribe ([EFCC v. James Ibori \[2009\]](#) Unreported – Abuja High Court). While this decision was struck down on appeal, no prosecution has yet ensued ([Ebegbulem, 2014](#)). Following the conviction of Ibori in the UK, the US\$15m, deposited with the Nigerian Central Bank, was claimed by both EFCC and the Delta State, though the latter had earlier stated the money had not belonged to it. Justice Gabriel Kolawole in the Federal High Court ruled on 25 October 2013 that the money be forfeited to the Federal Government.

The extradition of Ibori to the UK and his prosecution was funded by the Department for International Development (DfID). Its then Secretary of State, Andrew Mitchell MP PC, remarked that:

We are committed to rooting out corruption where ever it is undermining development, and will help bring its perpetrators like Ibori to justice and return stolen funds to help the world's poorest ([DfID, 2012](#)).

In March 2012, Ibori admitted his guilt on ten charges for which he was sentenced to 13 years in jail, including periods served on remand, receiving a reduced tariff, because he had admitted his guilt ([R v. James Onanefe Ibori \[2012\]](#) unreported - Southwark Crown Court)[20]. He appealed, unsuccessfully, the sentence, claiming an expectation of a sentence of 10 years ([Reuters, 2013](#); [R v. James Onanefe Ibori \[2013\]](#) EWCA Crim 815).

Other members of his family and some associates were also convicted ([Table XII](#)). However, the confiscation order against his mistress was successfully appealed because she had not been allowed to contest the valuation of the benefit she had received ([Onuigbo \(aka Okoronkwo\) v. R \[2014\]](#) EWCA Crim 65).

The House of Commons [Home Affairs Committee \(2013\)](#) held an inquiry into private investigators, largely arising from their use by certain newspapers ([Leveson, 2012](#)). The Ibori case was raised in oral evidence, with a claim that he had used RISC Management Ltd, a firm of private investigators, to determine the line of questioning that the Proceeds of Corruption Unit of the Metropolitan Police might take and that the sum of £20,000 had been paid illegally by RISC to police officers for this information. The issue was taken up in the press, doubtless because RISC had also been used by News International ([Gillard, 2012](#)). While four current and former members of the Metropolitan Police were questioned ([Lewis and Evans, 2012](#)), no charges were brought. The evidence may suggest that the money invoiced by RISC was for legitimate expenses.

Further proceedings are expected in the UK and USA on the seizure of the not inconsiderable assets of James Ibori[21]. He apparently used Clamorgan S.A., a Swiss asset management firm, and the infamous Mossack Fonseca, the Panamanian legal firm, to establish offshore entities for his wealth ([Table XIII](#)).

The conviction of Ibori in the UK led to some dispute in Nigeria as to the effectiveness of its prosecutorial and judicial systems. Justice Awokulehin, who had wrongfully dismissed the 170 corruption charges against Ibori, said the difference was that Nigerian law required proof beyond reasonable doubt, while in England he claimed, falsely, that “inference” was used to find guilt ([Babajide, 2012](#)). In any event, Ibori admitted his guilt on a range of

Table XII Prosecutions in the Ibori case					
Name	Relationship	Date	Conviction	Sentence	Confiscation
Elias Preko	Financial advisor	2013	Two counts of money laundering (R v. Preko [2015] EWCA Crim 42)	4½ years	–
James Onanefe Ibori	–	2012	Seven counts of money laundering; One count of conspiracy to commit forgery; One count of obtaining property by deception; and One count of conspiracy to defraud	13 years	Ongoing
Daniel Benedict McCann	Fiduciary agent	2011	Two counts of money laundering and four counts of forgery	30 months	–
Lambertus De Boer	Corporate financier	2011	Two counts of money laundering and four counts of forgery	30 months	–
Theresa Nkoyo Nakanda Ibori	Wife	2010	Money laundering	5 years	£5.1m
Christine Ibori-Ibie	Sister	2010	Money laundering	5 years	
Udoamaka Okoronkwo-Onuigbo	Mistress	2010	Money laundering	5 years	£2.7m
Bhadresh Babulal Gohil*	Solicitor	2007	Conspiracy to defraud	7 years	–
		2007	Conspiracy to make false instruments	5 years	–
		2007	Money laundering and Proceeds of Crime	3 years	–
Note: *Formerly a partner in Arlington Sharma Solicitors and now struck off (SDT, 2013)					

Table XIII Overseas firms belonging to James Ibori ^a			
Firm	Registration	Date	Status
Financial Advisory Group Ltd	Seychelles	26 January 2005	Dissolved
Hunglevest Corporation	Panama	12 April 2005	Resigned as agent
Julex Foundation	Panama	26 August 2003	Resigned as agent
Stanhope Investments Limited*	Seychelles	26 January 2005	Defaulted
Notes: ^a https://offshoreleaks.icij.org/nodes/15006801 ; * http://star.worldbank.org/corruption-cases/node/18867			
Source: Panama Papers and STaR			

charges, though not corruption, and there can be no dispute over his ineligibility for the governorship in 1999.

Conclusion

Nigeria is expected to exceed a quarter of a billion people within the next few years, making economic growth and the creation of jobs essential, as are the provision of education and health, for which telecommunications is vital. Despite which the policies have been haphazard and the implementation deeply flawed. Nonetheless, at the end of 2016, there were 86 million individual customers, 45 per cent of the population, of whom 30 per cent had smart phones, about 15 per cent of the population (GSMA, 2017).

The telecommunications sector is one window into the corruption, cronyism and prebendalism of the Nigerian state, illustrating the failures of institutions and of governance, and the venality of politicians. It confirms and illuminates the consistently awful rankings in the CPI, with a pattern of bribes, cronyism, deceit and fraud. The purchase of equipment for NITEL was corrupt over decades. For a time, licences were issued to cronies. There was grossly deficient due diligence in the failed transactions to privatise NITEL, involving, IILL, Pentascope and Transcorp. It is almost a suspension of disbelief, making it look, albeit unconvincingly, as if they were backed by foreigners with money and expertise, when the putative purchasers were Nigerian. [RIA \(2012\)](#) complained that fixed network provision was remarkably limited, placing a greatly increased burden on mobile networks. However, the long absence of an effective market for domestic and international leased lines will have had other damaging effects, for example, forcing companies to use satellite services.

Given the unexpected withdrawal of Etisalat[22], and assuming the MTN Group does float shares in MTN Nigeria, then the process of indigenisation will have been substantially achieved. Nigeria will continue to depend on global manufacturers for equipment and handsets, but operations will be predominantly in Nigerian hands, better able to work the politico-regulatory regime. The groups are sufficiently large and entrenched to limit corruption in the sector.

Research on telecommunication policy in Nigeria has been piecemeal and purblind, often looking at problems of narrow scope and avoiding bigger issues, especially questions of beneficial ownership and corruption. Admittedly, the systematic absence of electronic documents, in a country with a space programme, makes research difficult, presumably part of the efforts of the Nigerian elite to conceal their activities[23].

There is scope for considerable further research. The roles of the supposedly independent NCC in a deeply corrupt environment need further exploration, including the dismissal of one councillor (*Gwandu v. President FRN* [2014] Unreported – National Industrial Court; *President FRN & another v. Gwandu* [2016] LPELR-41299(CA)). Legislative scrutiny and oversight by the Nigerian parliament could usefully be examined. The history of licensing by the Abacha, Abubakar and Babangida administrations needs to be explored. The disappointing quality of research into Nigerian telecommunications policy requires to be explained, especially given the scale of the policy challenges. The limited provision of leased lines and national backbone networks could usefully be considered.

Notes

1. Some accounts suggest half that number, possibly those that worked.
2. Amended by the Telegraphy Act 1990 and Wireless Telegraphy (Amendment) Act 1998.
3. The colonial administration had set out modest policy goals (Government of Nigeria, 1957; World Bank, 1955).
4. The petroleum sector, partly because of its locations, made extensive use of satellite and private wireless networks.
5. This was replaced as the legal basis of the NCC by the Communications Act 2003.
6. The foreign partner is variously stated as being from Canada and the USA, sometimes Atlanta, with names such as DCL and DTL.
7. MTS allegedly owned NGN 285m in interconnection fees, though NITEL owned 45% of MTS and appointed its chairman.
8. The firm was led by Oyobvaire and Idika Kalu, ministers in the Babangida Government.
9. The Kolade Report was never published but is believed to be held in the National Archives.
10. 15 USC §§ 78dd-1, et seq.
11. Supplied by the same subsidiaries later found to have paid bribes in the Alcatel case.

12. In total, 111 public enterprises to be privatised, fully or partially, and another 35 to be commercialised.
13. A team was brought in to run BPE in 2005, in the hope of re-igniting the process (Oxford Analytica, 2006).
14. The Commission comprised Justice Daniel Ishola Adeniyi (chairman), Prince Ajibola Afonja, Barrister Peter Eze, Chief Janet Okwara, Barrister Paul Erokoro, P. J. Ekunke and Alhaji M. S. Audu.
15. Funded by First Bank of Nigeria.
16. The winning margin on the bids was suspiciously small, between US\$1,317m and 1,310m.
17. The deposit was a loan from the First Bank of Nigeria, resulting in the dismissal of two executives and litigation to determine whether it had been lent recklessly and without authorization (*Longe v. First Bank of Nigeria*, 2010).
18. Willem Swart (CEO), Andrew Mthembu (Deputy CEO) and Robert Pasley (Strategy Director).
19. At that time, SBC and Vodafone held stakes in Vodacom, which was owned by Vodafone, part owner of Verizon Wireless, all subject to the FCPA.
20. An e-petition was filed with the UK Parliament seeking to exclude Ibori from any prisoner transfer with Nigeria. <http://epetitions.direct.gov.uk/petitions/59082>
21. See <http://star.worldbank.org/corruption-cases/node/19575> and <http://star.worldbank.org/corruption-cases/node/19585> & <http://star.worldbank.org/corruption-cases/assetrecovery/ibori>
22. This seems to have been the result of a financial miscalculation, borrowing US\$1.2bn to fund network expansion, which it could not afford to repay, following the collapse in the value of its revenues in NGN. After interentions by NCC and CBN the firm was rebranded and sold (Senate, 2017).
23. For example, the NCC website contains no annual reports, which appears to be unlawful (Opat, 2013).

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